

FILED

SEP 30 2008

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

DAVID KISSI,

Plaintiff,

v.

U.S. SMALL BUSINESS
ADMINISTRATION,

Defendant.

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Civil Action No. 08-1485 (UNA)

MEMORANDUM OPINION

This matter is before the Court on consideration of plaintiff's application to proceed *in forma pauperis* and *pro se* complaint. The Court will grant the application, and dismiss the complaint.

Plaintiff brings this negligence action against the Small Business Administration. A claim of this nature would proceed under the Federal Tort Claims Act ("FTCA"), *see* 28 U.S.C. § 2671 *et seq.*

The FTCA provides that the "United States shall be liable [for tort claims] in the same manner and to the same extent as a private individual under like circumstances." 28 U.S.C. § 2674(a). The Act requires that a claimant present his claim to the appropriate federal agency prior to filing a civil action in a federal district court. *McNeil v. United States*, 508 U.S. 106, 113 (1993); 28 U.S.C. § 2675(a) (requiring claimant to present claim "for money damages for injury or loss of property . . . caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment . . . to the appropriate Federal agency" from which written notice of the denial of the claim has been

forwarded to the claimant before suit may be filed). Because plaintiff fails to allege the exhaustion of his administrative remedies by having presented his claim first to the appropriate agency as required by the Federal Tort Claims Act, this Court lacks jurisdiction to entertain his case.

An Order consistent with this Memorandum Opinion is issued separately on this same date.



United States District Judge

Date:

